

Translation

PATENT COOPERATION TREATY

PCT/JP2003/016641



PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference TLO-2	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/JP2003/016641	International filing date (day/month/year) 24 December 2003 (24.12.2003)	Priority date (day/month/year) 27 December 2002 (27.12.2002)
International Patent Classification (IPC) or national classification and IPC G02B 21/06, 21/14, 21/36		
Applicant KANSAI TECHNOLOGY LICENSING ORGANIZATION CO., LTD.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 8 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☐ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☐ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 01 April 2004 (01.04.2004)	Date of completion of this report 27 December 2004 (27.12.2004)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2003/016641

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ The international application as originally filed/furnished
- ☒ the description:
- pages \_\_\_\_\_ 1,4,6-13 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ 2,2/1,3,3/1,5 \_\_\_\_\_ received by this Authority on \_\_\_\_\_ 09 July 2004 (09.07.2004)
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- pages \_\_\_\_\_ 3-6 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_, as amended (together with any statement) under Article 19
- pages\* \_\_\_\_\_ 1-2,7 \_\_\_\_\_ received by this Authority on \_\_\_\_\_ 09 July 2004 (09.07.2004)
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- pages \_\_\_\_\_ 1-5 \_\_\_\_\_, as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP03/16641

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)

Claims

2-7

YES

Claim

1

NO

Inventive step (IS)

Claims

2-7

YES

Claim

1

NO

Industrial applicability (IA)

Claims

1-7

YES

Claims

NO

## 2. Citations and explanations (Rule 70.7)

### Claim 1

Paragraph [0040] and Fig. 3 of document 1 [JP, 8-136810, A (HAMAMATSU PHOTONICS K.K.), 31 May 1996 (31.05.96)] cited in the ISR pertains to a disklike member 360 that converges illumination light at respective different locations in the optical axis direction; the disklike member consists of fan-shaped portions with different thicknesses respectively.

The applicant, in the written reply, compares the present invention to the invention described in the aforesaid claim 1 and asserts the point that the phase change means and the confocal point scanner are separately and independently provided. But the point about independently and separately is not reflected in the claim, so this assertion cannot be employed.

Therefore the present invention is not novel and does not involve an inventive step on account of the aforesaid document 1.

### Claims 2-7

The present invention is an invention related to a multilayer observation optical microscope, and provides a phase change means and a confocal point scanner independently and separately, and thereby achieves the advantageous effect over prior art of being able to completely divide observed images of different depths.

Therefore the present invention is not obvious on the basis of any of the documents cited in the ISR.